

AMENDED IN ASSEMBLY APRIL 18, 2002

AMENDED IN ASSEMBLY APRIL 9, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

## ASSEMBLY BILL

**No. 2238**

**Introduced by Assembly Member Dickerson**

February 20, 2002

---

An act to amend Section 6254.21 of, and to add Sections 6254.23 and 6254.24 to, the Government Code, and to amend Section 146e of the Penal Code, relating to public officials.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2238, as amended, Dickerson. Public Safety Officials Home Protection Act.

Existing law prohibits any state or local agency from posting the home address or telephone number of any elected or appointed official on the Internet without first obtaining the written permission of that individual.

This bill would prohibit any person from knowingly posting the above information of any elected or appointed official, as defined, or the official's *residing* spouse or child, on the Internet knowing that person is an elected or appointed official and intending or threatening *to cause* imminent physical harm to that individual. The bill would include public safety officials, as defined, within the list of covered officials. This bill would make a violation of these provisions a misdemeanor, and would make the violation a felony if it leads to the bodily injury of the official or his or her *residing* spouse or child.

This bill would also ~~permit a public safety official, as defined, to use his or her business address or telephone number in lieu of a home address for specified public records, and would prohibit every person, business, and association from possessing or~~ *prohibit public agencies from* disclosing the home address and telephone number of any public safety official without the official's consent, *with specified exceptions*. A willful violation of these provisions would be a misdemeanor, or a felony if the willful violation resulted in bodily injury to the official, or his or her *residing* spouse or child. The bill would define public safety officials to include elected or appointed officials. Because this bill would create a new crime, it would impose a state-mandated local program.

*The bill would allow for inspection of a public safety official's home address in an election in which residency is a requirement and is in dispute, upon a showing in court of good cause. The bill would further allow for inspection of a public safety official's home address if the official is to vote, adjudicate, or exercise official discretion, or has done so in the past, in any matter in which the official's residency is at issue and is in dispute, upon a showing in court of good cause. Additionally, the bill would allow a member of the public to request the recorder or registrar to confirm that a candidate for public office resides within the district boundaries. By requiring a higher level of service from a local official, the bill would impose a state-mandated local program.*

*The bill would require every person, business, and association in the state, upon written demand from a public safety official, to remove from its records the home address and telephone number of the public safety official, or his or her residing spouse or child, and would allow for the insertion of a business address or telephone number in its place.*

Under existing law every person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any peace officer, nonsworn police dispatcher, or employee of a city police department or county sheriff's office, or that of the spouse or children of these persons, whether living with them or not, while designating the peace officer, nonsworn police dispatcher, or relative of these persons as such, without the authorization of the employing agency, is guilty of a misdemeanor.

This bill would include with the intent or threat to inflict imminent physical harm in retaliation for the due administration of the laws in the above prohibition, and would include public safety officials, as defined,



among the list of those who may not have their information published. Because this bill would create a new crime, it would impose a state-mandated local program.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.*

*This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known and may be cited as the  
2 Public Safety Officials Home Protection Act.

3 SEC. 2. Section 6254.21 of the Government Code is amended  
4 to read:

5 6254.21. (a) No person shall knowingly post the home  
6 address or telephone number of any elected or appointed official,  
7 or of the official's *residing* spouse or child on the Internet knowing  
8 that person is an elected or appointed official and intending ~~or~~  
9 ~~threatening~~ *to cause imminent physical harm or threatening to*  
10 *cause imminent physical harm to that individual. A violation of*  
11 *this section is a misdemeanor. A violation of this section that leads*  
12 *to the bodily injury of the official, or his or her* *residing* *spouse or*  
13 *child, is a felony.*

(b) For purposes of this section “elected or appointed official” includes, but is not limited to, all of the following:

- (1) State constitutional officers.
- (2) Members of the Legislature.
- (3) Judges and court commissioners.
- (4) District attorneys.
- (5) Public defenders.
- (6) Members of a city council.
- (7) Members of a board of supervisors.
- (8) Appointees of the Governor.
- (9) Appointees of the Legislature.
- (10) Mayors.
- (11) City attorneys.
- (12) Police chiefs and sheriffs.
- (13) A public safety official as defined in Section 6254.24.

*(c) Nothing in this section is intended to preclude punishment instead under Sections 69, 76, or 422 of the Penal Code, or any other provision of law.*

SEC. 3. Section 6254.23 is added to the Government Code, to read:

~~6254.23.—(a) Nothing in this chapter or any other provision of law shall require a public safety official, or his or her spouse or child, to disclose his or her home address or telephone number on any public record maintained by any state, county, or city agency in this state.~~

~~(b) Upon written demand of a public safety official, signed under penalty of perjury, every state, county or city agency shall remove from its public records or database the home address and telephone information of the public safety official, or his or her spouse or child, and shall insert in its place a business address or telephone number of the public safety official, or his or her spouse or child.~~

~~(c)~~

6254.23. (a) No public agency shall disclose the confidential home address and telephone number of a public safety official to any address, telephone number, or assessor parcel number of a public safety official, or his or her residing spouse or child, who has made a request pursuant to paragraph (e) of this section, to any person without the written consent of the official, except to a court, a law enforcement agency, the State Board of Equalization, or any

governmental agency to which, under any provision of law, information is required to be furnished from records maintained by that agency. The disclosed information shall be limited solely for the required purpose.

~~(d)~~

*(b) In an election in which residency is a requirement and a bona fide dispute exists regarding the public safety official's actual residency, a court shall order the public agency to permit public inspection of the public safety official's home address upon a showing of good cause.*

*(c) A member of the public may request from the recorder or registrar an affidavit to confirm that a candidate for public office resides within the district boundaries.*

*(d) In any matter in which a public safety official is to vote, adjudicate, or exercise official discretion, or has voted, adjudicated, or exercised official discretion, in any matter in which the public safety official's residency is at issue, and a bona fide dispute exists regarding the public safety official's actual residency, a court shall order the public agency to permit public inspection of the public safety official's home address upon the showing of good cause.*

*(e) Upon written demand of a public safety official, signed under penalty of perjury, every person, business, and association in the state shall remove from its records or database the home address and telephone information of the public safety official, or ~~his or her spouse or child, unless it has the consent of the public~~ his or her residing spouse or child, unless it has the prior consent of the public safety official to have that information, and ~~shall~~ may insert in its place a business address or telephone number of the public safety official, ~~or his or her spouse or child~~. Any contracts entered into prior to January 1, 2003, shall be deemed as prior consent.*

~~(e) A willful violation of subdivision (d) is a misdemeanor. A~~

*(f) A willful violation of subdivision (e) is a misdemeanor. A willful violation of subdivision ~~(d)~~ (e) that leads to the bodily injury of that public safety official, or his or her residing spouse or child, is a felony.*

~~(f)~~

1 (g) In addition to any other remedies provided by law, a  
2 violation of this section is a tort and may result in any damages and  
3 injunctive relief.

4 ~~(g)~~

5 (h) For purposes of this section, “public safety official” is  
6 defined in Section 6254.24.

7 SEC. 4. Section 6254.24 is added to the Government Code, to  
8 read:

9 6254.24. As used in this chapter, “public safety official”  
10 means the following:

11 (a) An active or retired peace officer as defined in Sections 830  
12 and 830.1 of the Penal Code.

13 (b) An active or retired public officer or other person listed in  
14 Sections 1808.2, 1808.4, and 1808.6 of the Vehicle Code.

15 (c) An “elected or appointed official” as defined in subdivision  
16 (b) of Section 6254.21.

17 SEC. 5. Section 146e of the Penal Code is amended to read:

18 146e. (a) Every person who maliciously, and with the intent  
19 to obstruct justice or the due administration of the laws, or with the  
20 intent or threat to inflict imminent physical harm in retaliation for  
21 the due administration of the laws, publishes, disseminates, or  
22 otherwise discloses the residence address or telephone number of  
23 any peace officer, nonsworn police dispatcher, employee of a city  
24 police department or county sheriff’s office, or public safety  
25 official, or that of the spouse or children of these persons, whether  
26 living with them or not, while designating the peace officer,  
27 nonsworn police dispatcher, employee of a city police department  
28 or county sheriff’s office, or public safety official, or relative of  
29 these persons as such, without the authorization of the employing  
30 agency, is guilty of a misdemeanor.

31 (b) A violation of subdivision (a) with regard to any peace  
32 officer, employee of a city police department or county sheriff’s  
33 office, or public safety official, or the spouse or children of these  
34 persons, that results in bodily injury to the peace officer, employee  
35 of the city police department or county sheriff’s office, or public  
36 safety official, or the spouse or children of these persons, is a  
37 felony.

38 (c) For purposes of this section, “public safety official” is  
39 defined in Section 6254.24 of the Government Code.

~~SEC. 6.— No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

*SEC. 6. Nothing in this act shall supersede any criminal registration requirement, including, but not limited to, the requirements set forth in Section 11590 of the Health and Safety Code, and Sections 290 and 457.1 of the Penal Code.*

*SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

*However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.*